

106TH CONGRESS  
1ST SESSION

# H. R. 675

To provide jurisdiction and procedures for affording relief for injuries arising out of exposure to hazards involved in the mining and processing of beryllium.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1999

Mr. KANJORSKI introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide jurisdiction and procedures for affording relief for injuries arising out of exposure to hazards involved in the mining and processing of beryllium.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Beryllium Exposure  
5   Compensation Act”.

### 6   **SEC. 2. FINDINGS, PURPOSE, AND APOLOGY.**

7       (a) FINDINGS.—The Congress finds that—

1           (1) hazards involved in the mining and process-  
2           ing of beryllium and its compounds are presumed to  
3           have caused injury, disease, and disability among  
4           those who worked in the beryllium processing indus-  
5           try;

6           (2) workers who were exposed to beryllium haz-  
7           ards were subjected to increased risk of injury and  
8           disease to serve the national security interests of the  
9           United States; and

10          (3) the United States should recognize and as-  
11          sume responsibility for the harm done to these work-  
12          ers.

13          (b) PURPOSE.—It is the purpose of this Act to estab-  
14          lish a procedure to provide relief to the workers described  
15          in subsection (a) for the burdens they have borne for the  
16          Nation as a whole.

17          (c) APOLOGY.—The Congress apologizes on behalf of  
18          the Nation to the workers described in subsection (a) and  
19          their families for the hardships they have endured.

20       **SEC. 3. TRUST FUND.**

21          (a) ESTABLISHMENT.—There is established in the  
22          Treasury of the United States, a trust fund to be known  
23          as the Beryllium Exposure Compensation Trust Fund,  
24          which shall be administered by the Secretary of the Treas-  
25          ury.

1 (b) INVESTMENT OF AMOUNTS IN THE FUND.—  
2 Amounts in the Fund shall be invested in accordance with  
3 section 9702 of title 31, United States Code, and any in-  
4 terest on, and proceeds from any such investment shall  
5 be credited to the Fund.

6 (c) AVAILABILITY OF THE FUND.—Amounts in the  
7 Fund shall be available only for disbursement by the At-  
8 torney General under section 5.

9 (d) TERMINATION.—The Fund shall terminate 30  
10 years after the date of the enactment of this Act. If all  
11 of the amounts in the Fund have not been expended by  
12 the end of that 30-year period, investments of amounts  
13 in the Fund shall be liquidated and receipts thereof depos-  
14 ited in the Fund and all funds remaining in the Fund shall  
15 be deposited in the miscellaneous receipts account in the  
16 Treasury.

17 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
18 are authorized to be appropriated to the Fund such sums  
19 as may be necessary to carry out its purposes, which may  
20 remain available until expended.

21 **SEC. 4. CLAIMS.**

22 (a) IN GENERAL.—A beryllium worker described in  
23 subsection (b) shall receive \$100,000 if—

1           (1) the claim for such payment is filed with the  
2       Attorney General by or on behalf of such individual;  
3       and

4           (2) the Attorney General determines, in accord-  
5       ance with section 5, that the claim meets the re-  
6       quirements for payment under this Act.

7       (b) ELIGIBLE BERYLLIUM WORKER.—A beryllium  
8       worker described in this subsection is an individual who—

9           (1) at any time during the period beginning  
10      January 1, 1930, and ending December 31, 1980,  
11      was employed at a beryllium industry site;

12          (2) was exposed to significant beryllium hazards  
13      in the course of such employment; and

14          (3) after such exposure developed a condition  
15      known to be related to beryllium exposure.

16       (c) CONFORMITY WITH SECTION 5.—Payments  
17      under this section may be made only in accordance with  
18      section 5.

19   **SEC. 5. DETERMINATION AND PAYMENT OF CLAIMS.**

20       (a) ESTABLISHMENT OF FILING PROCEDURES.—The  
21      Attorney General shall establish procedures whereby  
22      claims may be submitted under this Act.

23       (b) REQUIRED PROCEDURES.—The procedures es-  
24      tablished pursuant to subsection (a) shall provide that a

1 claim meets the requirements for payment under this Act  
2 only if the claim includes—

3 (1) adequate documentation that the individual  
4 satisfies the requirements of paragraphs (1) and (2)  
5 of section 4(b); and

6 (2) written medical documentation that the in-  
7 dividual satisfies the requirements of paragraph (3)  
8 of section 4(b).

9 (c) DETERMINATION OF CLAIMS.—

10 (1) IN GENERAL.—The Attorney General shall  
11 determine, in accordance with the guidelines estab-  
12 lished pursuant to this subsection, whether each  
13 claim filed under this Act meets the requirements  
14 for payment under this Act.

15 (2) CONSULTATION ON GUIDELINES.—The At-  
16 torney General shall establish guidelines in consulta-  
17 tion with—

18 (A) the Secretary of Defense, the Sec-  
19 retary of Energy, and the Secretary of Labor,  
20 for determining what constitutes adequate doc-  
21 umentation that an individual satisfies the re-  
22 quirements of paragraph (1) of section 4(b);

23 (B) the Director of the National Institute  
24 for Occupational Safety and Health, for deter-  
25 mining what constitutes significant beryllium

1 hazards within the meaning of paragraph (2) of  
2 section 4(b) and what constitutes adequate doc-  
3 umentation that an individual satisfies the re-  
4 quirements of such paragraph; and

5 (C) the Surgeon General, for determining  
6 what constitutes written medical documentation  
7 that an individual satisfies the requirements of  
8 paragraph (3) of section 4(b).

9 (3) CONSULTATION ON DETERMINATIONS.—

10 The Attorney General may consult with—

11 (A) the Secretary of Defense, the Sec-  
12 retary of Energy, and the Secretary of Labor in  
13 making determinations pursuant to the guide-  
14 lines established under paragraph (2)(A);

15 (B) the Director of the National Institute  
16 for Occupational Safety and Health in making  
17 determinations pursuant to the guidelines es-  
18 tablished under paragraph (2)(B); and

19 (C) the Surgeon General in making deter-  
20 minations pursuant to the guidelines established  
21 under paragraph (2)(C).

22 (d) PAYMENT OF CLAIMS.—

23 (1) IN GENERAL.—Subject to section 12, the  
24 Attorney General shall pay, from amounts available  
25 in the Fund, claims filed under this Act which the

1 Attorney General determines meet the requirements  
2 for payment under this Act.

3 (2) OFFSET FOR CERTAIN PAYMENTS.—A pay-  
4 ment under this Act to an individual, or to a sur-  
5 vivor of that individual, on a claim under section 4  
6 shall be offset by the amount of any payment made  
7 pursuant to a final award or settlement on a claim  
8 (other than a claim for worker's compensation),  
9 against any person, that is based on injuries in-  
10 curred by that individual on account of exposure to  
11 significant beryllium hazards at any time during the  
12 period referred to in section 4(b)(1).

13 (3) RIGHT OF SUBROGATION.—Upon payment  
14 of a claim under this Act, the United States Govern-  
15 ment is subrogated for the amount of the payment  
16 to a right or claim that the individual to whom the  
17 payment was made may have against any person on  
18 account of injuries referred to in paragraph (2).

19 (4) PAYMENTS IN THE CASE OF DECEASED  
20 PERSONS.—

21 (A) IN GENERAL.—In the case of an indi-  
22 vidual who is deceased at the time of payment  
23 under this Act, such payment may be made  
24 only as follows:

1 (i) If the individual is survived by a  
2 spouse who is living at the time of pay-  
3 ment, such payment shall be made to such  
4 surviving spouse.

5 (ii) If there is no surviving spouse de-  
6 scribed in clause (i), such payment shall be  
7 made in equal shares to all children of the  
8 individual who are living at the time of  
9 payment.

10 (iii) If there is no surviving spouse de-  
11 scribed in clause (i) and if there are no  
12 children described in clause (ii), such pay-  
13 ment shall be made in equal shares to the  
14 parents of the individual who are living at  
15 the time of payment.

16 (iv) If there is no surviving spouse de-  
17 scribed in clause (i), and if there are no  
18 children described in clause (ii) or parents  
19 described in clause (iii), such payment  
20 shall be made in equal shares to all grand-  
21 children of the individual who are living at  
22 the time of payment.

23 (v) If there is no surviving spouse de-  
24 scribed in clause (i), and if there are no  
25 children described in clause (ii), parents

described in clause (iii), or grandchildren described in clause (iv), then such payment shall be made in equal shares to the grandparents of the individual who are living at the time of payment.

(B) INDIVIDUALS WHO ARE SURVIVORS.—

If an individual eligible for payment under section 4 dies before filing a claim under this Act, any survivor of that individual described in subparagraph (A) may file a claim for such payment under this Act.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) the spouse of an individual is a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

(ii) a child includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

(iii) a parent includes fathers and mothers through adoption;

1 (iv) a grandchild of an individual is a  
2 child of a child of that individual; and

3 (v) a grandparent of an individual is  
4 a parent of a parent of that individual.

5 (e) ACTION ON CLAIMS.—The Attorney General shall  
6 complete the determination on each claim filed in accord-  
7 ance with the procedures established under subsection (a)  
8 not later than 12 months after the claim is so filed.

9 (f) PAYMENT IN FULL SETTLEMENT OF CLAIMS  
10 AGAINST UNITED STATES.—The acceptance of payment  
11 by an individual under this Act shall be in full satisfaction  
12 of all claims of or on behalf of that individual against the  
13 United States, or against any person with respect to that  
14 person's performance of a contract with the United States,  
15 that arise out of exposure to significant beryllium hazards  
16 at any time during the period referred to in section  
17 4(b)(1).

18 (g) ADMINISTRATIVE COSTS NOT PAID FROM  
19 FUND.—The costs incurred by the Attorney General in  
20 carrying out this Act may not be paid from the Fund or  
21 set off against, or otherwise deducted from, any payment  
22 under this Act to any individual.

23 (h) TERMINATION OF DUTIES OF ATTORNEY GEN-  
24 ERAL.—The duties of the Attorney General under this Act  
25 shall cease when the Fund terminates.

1 (i) CERTIFICATION OF TREATMENT OF PAYMENTS  
2 UNDER OTHER LAWS.—Amounts paid to an individual  
3 under this Act—

4 (1) shall be treated for purposes of the internal  
5 revenue laws of the United States as damages for  
6 human suffering; and

7 (2) shall not be included as income or resources  
8 for purposes of determining eligibility to receive ben-  
9 efits described in section 3803(c)(2)(C) of title 31,  
10 United States Code, or the amount of such benefits.

11 (j) USE OF EXISTING RESOURCES.—The Attorney  
12 General should use funds and resources available to the  
13 Attorney General to carry out his or her functions under  
14 this Act.

15 (k) REGULATORY AUTHORITY.—The Attorney Gen-  
16 eral may issue any regulations necessary to carry out this  
17 Act.

18 (l) ISSUANCE OF REGULATIONS, GUIDELINES, AND  
19 PROCEDURES.—Regulations, guidelines, and procedures  
20 to carry out this Act shall be issued not later than 180  
21 days after the date of the enactment of this Act.

1 **SEC. 6. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE; LIM-**  
2 **TATION OF REMEDIES.**

3 (a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—  
4 A claim cognizable under this Act may not be assigned  
5 or transferred.

6 (b) LIMITATION OF REMEDIES.—An individual may  
7 not receive more than one payment under this Act.

8 **SEC. 7. STATUTE OF LIMITATIONS.**

9 A claim to which this Act applies shall be barred un-  
10 less the claim is filed within 20 years after the date of  
11 the enactment of this Act.

12 **SEC. 8. ATTORNEY FEES.**

13 It shall be unlawful for an amount exceeding 10 per-  
14 cent of the value of any payment made under this Act  
15 to be paid to, or received by, any agent or attorney for  
16 any service rendered in connection with the claim for pay-  
17 ment. Any person who violates this section shall be guilty  
18 of an infraction, and shall be subject to a fine in the  
19 amount provided in title 18, United States Code.

20 **SEC. 9. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF**  
21 **DAMAGES.**

22 A payment made under this Act shall not be consid-  
23 ered as any form of compensation or reimbursement for  
24 a loss for purposes of imposing liability on any individual  
25 receiving such payment, on the basis of such receipt, to  
26 repay any insurance carrier for insurance payments, or to

1 repay any person on account of worker's compensation  
2 payments, and a payment under this Act shall not affect  
3 any claim against an insurance carrier with respect to in-  
4 surance or against any person with respect to worker's  
5 compensation.

6 **SEC. 10. DEFINITIONS.**

7 For purposes of this Act, the following definitions  
8 shall apply:

9 (1) BERYLLIUM INDUSTRY SITE.—The term  
10 “beryllium industry site” means a site that—

11 (A) was owned, operated, or supervised by  
12 the Federal Government for the mining or proc-  
13 essing of beryllium or a beryllium compound; or

14 (B) produced mined or processed beryllium  
15 or beryllium compound under contract with the  
16 Federal Government.

17 (2) FUND.—The term “Fund” means the Be-  
18 ryllium Exposure Compensation Trust Fund under  
19 section 3(a).

20 **SEC. 11. REPORT.**

21 The Secretary of Health and Human Services shall  
22 submit to the Congress not later than September 30,  
23 2003, a report on the incidence of beryllium-related illness  
24 among workers employed at beryllium industry sites.

1 **SEC. 12. BUDGET ACT COMPLIANCE.**

2       The authority under this Act to enter into contracts  
3 or to make payments shall not be effective in any fiscal  
4 year except to such extent or in such amounts as are pro-  
5 vided in advance in appropriations Acts.

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